



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

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REGIONAL  
ADMINISTRATOR'S  
DIVISION

February 11, 2021

Kevin Christensen  
USDA-APHIS-Wildlife Services  
6035 NE 78<sup>th</sup> CT. Suite 100  
Portland, Oregon 97216

Dear Mr. Christensen:

The U.S. Environmental Protection Agency has reviewed the U.S. Department of Agriculture, Animal and Plant Health Inspection Service's January 21, 2021 Federal Register Notice of Intent (NOI) to prepare an Environmental Impact Statement regarding Predator Damage Management (PDM) in Oregon (EPA Region 10 project number 19-0074-APH). Our review of the NOI was conducted in accordance with our responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act.

USDA-APHIS states that the EIS is being developed in response to requests from landowners/managers, applicable agencies, or Tribal authorities for assistance in reducing conflicts with predators in Oregon. The EIS will replace APHIS-Wildlife Service's environmental assessments on predator damage management and the separate environmental assessment on wolf damage management in Oregon. In addition, USDA-APHIS will continue to prepare the EIS under the Council on Environmental Quality's regulations in effect on the date of the notice of intents publication (November 14, 2019) and APHIS' National Environmental Policy Act Implementing Procedures.

In the Federal Register notice, USDA-APHIS discusses issues and alternatives for consideration in the EIS and requests public comments to further delineate the scope of issues for the analysis. We support developing an EIS to fully analyze alternatives and potential environmental issues. We also commend the USDA-APHIS for emphasizing the need to base decisions on scientific data, studies, and research.

We agree that the issues identified by USDA-APHIS should be analyzed in the EIS including:

- Impacts of intentional take on State and regional predator populations;
- Effects on nontarget animal populations, including species federally listed under the Endangered Species Act (61 U.S.C. 1531 et seq.);
- Impacts of the alternatives on predator-prey relationships and ecosystem processes (e.g., trophic cascades);
- Humaneness and ethical perspectives regarding PDM activities;
- Risks and benefits to human and pet safety from PDM activities;
- Impacts on Special Management Areas, including Wilderness and Wilderness Study Areas; and
- Sociocultural impacts, including impacts on values, hunting, nonconsumptive uses, aesthetic impacts, Native American cultural uses, and economic effects.

In addition to the above topics of concern we recommend that the following issues be analyzed and disclosed in the EIS:

- The potential impacts from management actions (i.e. lethal applications) and the effect on specific target species in Oregon;
- The numbers of each species of wildlife removed from current and past PDM programs and quantity from the future program;
- The ecological consequences of PDM from lethal and non-lethal mechanisms, including ecosystem-wide effects and changes to ecosystem structure, processes, and provision of ecosystem services;
- The effects upon local, regional, and state-wide biological diversity;
- The short and long-term effectiveness of current and proposed PDM programs;
- Potential effect on sensitive and vulnerable species by application of toxins/lethal actions;
- Potential effects on other wildlife species and domestic animals;
- Potential effects on human health, including the most sensitive populations;
- Effects on species outside the borders of Oregon (migratory, and normal home range movements of species that move across state boundaries);
- Consequences on species that are listed and/or de-listed under the federal Endangered Species Act.
- The nature and content of any agreements with the Oregon Department of Fish and Wildlife, and federal land management agencies about management of predators;
- The time-period for which the proposed action would apply; and
- The monitoring, data, record keeping, and science used to support the analysis, findings, and conclusions.

Our attached comments and recommendations include the topics and issues that we believe warrant consideration and analysis during the development of the EIS. Thank you for the opportunity to provide comments early in the NEPA process. If you have questions regarding our comments, please contact David Magdangal of my staff at 208-553-4044 or at [magdangal.david@epa.gov](mailto:magdangal.david@epa.gov).

Sincerely,

Karl Pepple, Acting Chief  
Policy and Environmental Review Branch

Enclosure: U.S. Environmental Protection Agency Detailed Scoping Comments for Predator Damage Management in Oregon

## **U.S. Environmental Protection Agency Scoping Comments for Predator Damage Management in Oregon**

### **Background**

We recommend that the EIS discuss the background of predator management in Oregon. The background should include any raised concerns by the public and tribes and how those have been addressed and/or mitigated over the course of the predator management program.

We recommend that USDA-APHIS discuss methods, procedures, and implementation of predator management activities by the Wildlife Services. This includes summarizing data and monitoring reports. The background should also include information on the efficacy of methods used in predator management.

### **Purpose and Need**

We recommend the EIS include a statement of the purpose and need for the proposed project, consistent with the implementing regulations for NEPA.<sup>1</sup> When an agency's statutory duty is to review an application for authorization, the agency shall base the purpose and need on the goals of the applicant and the agency's authority. We encourage APHIS to involve interested agencies and stakeholders in the development of the purpose and need statement to the extent possible.

### **Range of Alternatives**

Consistent with the purpose of the NEPA,<sup>2</sup> EPA encourages selection of alternatives that protect, restore and enhance the environment. We support the lead agencies' efforts to identify and select alternatives that maximize environmental benefits and that avoid, minimize, and/or otherwise mitigate environmental impacts. We further note our support for actions that restore natural processes and recommend that you consider an EIS alternative that evaluates and identifies an environmentally preferred alternative.

The NOI includes a list of alternatives and options for management. To effectively compare alternatives, we recommend evaluating an alternative that would avoid methods that are lethal, inhumane, toxic to the environment, hazardous to human health or pets, and/or could adversely affect non-target species. We also agree with the inclusion of APHIS Wildlife Service's alternative presented in the NOI to use only nonlethal predator damage management methods. Alternatives measures could include predator deterrents, compensation for livestock losses due to predation, and other methods.

We recommend reviewing and disclosing the scientific research about the effects of lethal wildlife control on ecosystem function. We provide the following references to inform the development and analysis of alternatives:

- B.J. Bergstrom et al. 2013. *Reforming Federal Wildlife Control to Restore Biodiversity and Ecosystem Function* <https://onlinelibrary.wiley.com/doi/pdf/10.1111/conl.12045>.
- Frazier, C. 2011. *The Crucial Role of Predators: A New Perspective on Ecology*. [https://e360.yale.edu/features/the\\_crucial\\_role\\_of\\_predators\\_a\\_new\\_perspective\\_on\\_ecology](https://e360.yale.edu/features/the_crucial_role_of_predators_a_new_perspective_on_ecology).

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<sup>1</sup> 40 CFR 1502.13

<sup>2</sup> 40 CFR 1500.1

- Leopold et al. 1964. *Predator and Rodent Control in the United States*. U.S. Fish & Wildlife Publications. 254. <http://digitalcommons.unl.edu/usfwspubs/254>

### **Use of Toxic Substances**

The EIS should disclose the toxic substances that would be used and how chemicals comply with the Toxic Substances Control Act. In addition, sensitive populations are more susceptible to health effects from toxins. For example, children, including prenatal exposure, can be more vulnerable to contaminants.

Executive Order 13045 on children's health and safety directs that each Federal agency shall make it a high priority to identify and assess environmental health and safety risks that may disproportionately affect children, and shall ensure that its policies, programs, activities, and standards address these risks.<sup>3</sup> Analysis and disclosure of these potential effects is appropriate because some physiological and behavioral traits of children render them more susceptible and vulnerable than adults to health and safety risks. Children may be more vulnerable to the toxic effects of contaminants because their bodies and systems are not fully developed, and their growing organs are more easily harmed.

### **Water Quality**

One of EPA's primary considerations of any project is the potential effect of management actions on surface water quality. Under any alternative that evaluates lethal methods, the EIS should analyze whether contamination of surface water from predator carcasses and toxins could occur and therefore, impact aquatic species and water resources for wildlife and livestock. The EIS should also discuss mitigation to address potential issues including options for managing predator carcasses.

### **Public Drinking Water**

Public drinking water and/or their source areas exist in many watersheds. It is possible that source water areas exist within the predator management area. Source water is water from streams, rivers, lakes, springs, and aquifers used as a supply of drinking water. The 1996 amendments to the Safe Drinking Water Act require federal agencies to protect sources of drinking water for communities. State agencies have been delegated responsibility to delineate and map each federally-regulated public water system, and to conduct source water assessments and provide a database of information about the watersheds and aquifers that supply public water systems. The application of toxins as well as wildlife carcasses can contaminate drinking water sources and adversely affect public health and safety. EPA recommends that APHIS contact the Oregon Department of Environmental Quality to help find source water protection areas. The EIS should:

- Identify all source water protection areas within the project area;
- Identify all activities and potential contaminants caused by management activities that could potentially affect source water areas; and
- Identify all measures to protect the source water protection areas in the EIS.

### **Tribal Interests**

Pursuant to Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000), we recommend that the EIS describe the process and outcome of government-to-

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<sup>3</sup> Protection of Children from Environmental Health Risks and Safety Risks, Executive Order 13045, Fed. Reg. 19885-19888, (April 23, 1997).

government consultation between the APHIS and tribal governments within the project area, issues that were raised, and how those issues were addressed in the EIS analysis.

We recommend the identification, inclusion, and integration of traditional ecological knowledge into the EIS analysis, as appropriate. Such anthropological work can include the collection of local and traditional knowledge concerning the affected environment, anticipated impacts from the project, and traditional hunting and land use patterns in the area. We recommend that, in addition to reviewing any pertinent traditional ecological knowledge currently available, additional studies be conducted as necessary to clearly identify concerns and potential impacts from the proposed project and project alternatives. This information should be reviewed and included in the EIS to the extent possible and utilized in the analysis of potential impacts.

### **Environmental Justice**

In compliance with NEPA and with Executive Order 12898 on Environmental Justice, federal agency actions should conduct adequate public outreach and participation that ensures the public and Native American tribes understand impacts to their communities and trust resources. Executive Order 12898 requires each federal agency to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations, low-income populations, and Native American tribes.<sup>4</sup> EPA also considers children, the disabled, the elderly, and those of limited English proficiency as potential Environmental Justice communities due to their unique vulnerabilities.

The CEQ has developed guidance concerning how to address Environmental Justice in the environmental review process.<sup>5</sup> In accordance with this guidance, the EPA recommends that the EIS address the following points:

- Identify low income, minority, and Native communities that may be impacted by the project;
- Describe the efforts to meaningfully involve and inform affected communities about project decisions and impacts;
- Disclose the results of meaningful involvement efforts, such as community identified impacts;
- Evaluate identified project impacts for their potential to disproportionately impact low income, minority, or Native communities, relative to a reference community;
- Disclose how potential disproportionate impacts and environmental justice issues are addressed by the APHIS' decision-making process;
- Propose mitigation for unavoidable impacts that are likely to occur; and,
- Include a summary conclusion, sometimes referred to as an 'environmental justice determination' that concisely expresses how APHIS avoids, minimizes, or mitigates environmental justice impacts.

We also recommend including consideration of the dependence of local communities on local and regional subsistence resources, access to those resources, and perception of the quality of those resources. Additional information and tools for environmental justice analysis can be found on the EPA's website at: <https://www.epa.gov/environmentaljustice>.

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<sup>4</sup> EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations. February 11, 1994.

<sup>5</sup> <http://ceq.hss.doe.gov/nepa/regs/ej/justice.pdf>

## **Public Involvement**

The EIS should show evidence that APHIS took the following steps for effective public involvement:

- Plan and budget for public involvement activities;
- Identify the interested and affected public;
- Consider providing technical or financial assistance to the public to facilitate involvement;
- Provide information and outreach to the public;
- Conduct public consultation and involvement activities;
- Review and use input and provide feedback to the public; and
- Evaluate public involvement activities.

For more information, we recommend resources from the International Association for Public Participation.<sup>6</sup>

## **Climate Change**

EPA recommends that the EIS include a discussion of reasonably foreseeable effects that changes in the climate may have on the proposed project and the project area. This could help inform the development of measures to improve the resilience for wildlife species. If projected changes could notably exacerbate the environmental impacts and ability for species to adapt to predator management practices, the EPA recommends these impacts also be considered as part of the NEPA analysis.

## **Ecosystem Services**

The sustainable use of natural ecosystems, including activities affecting wildlife populations, have an important role in the conservation of biodiversity and ecosystem services.<sup>7</sup> In the NEPA analysis, we recommend considering the full range of ecological effects from the proposed actions, including but not limited to, the trophic food web effects, the connections to ecological structure and function, and the effects on ecosystem services that humans depend on and need from public lands. We encourage the assessment and integration of ecosystem services into agency decision making, and that discussion in the EIS include the following elements:

- Identify and classify key ecosystem services in the location of interest, i.e., the affected environment;
- Assess the impact of the Federal action on ecosystem services relative to baseline;
- Assess the effect of the changes in ecosystem services associated with the Federal action; and
- Integrate ecosystem services analyses into decision making.

## **Cumulative Effects**

Cumulative impacts result when the effects of an action are added to other effects on a resource at a place and within a time. The combination of these effects, and any resulting environmental degradation, is the focus of cumulative impact analysis. While impacts can be differentiated by direct, indirect, and cumulative, the concept of cumulative impacts accounts for all relevant disturbances over time. Because of that, resources, ecosystems and communities should be characterized in terms of their response to change and capacity to withstand stresses. For this project, we recommend:

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<sup>6</sup> Accessed online 6/25/19: <http://www.lap2.org/>

<sup>7</sup> Millennium Ecosystem Assessment, 2005. Ecosystems and Human Well-being: Synthesis. Island Press, Washington, DC.

- Focusing on resources that are "at risk" or have the potential to be significantly impacted by the proposed project.
- The EIS delineate and explain the reasoning behind geographic boundary decisions. We encourage use of natural ecological boundaries to the extent possible. For example, for cumulative impacts to wetlands, a natural boundary such as a watershed or sub-watershed could be identified for the spatial scope, although an analysis at multiple geographic scales may also be appropriate.
- The EIS include a determination and explanation for the analyses' temporal scope. Trend data, where available, can be used to establish a baseline for the affected resources, project a reasonably foreseeable cumulative baseline for the affected resources, and to predict the environmental effects of the project when added to this baseline.

EPA's Consideration of Cumulative Impacts in EPA Review of NEPA Documents provides guidance on the assessment of cumulative impacts.<sup>8</sup> The guidance states that to assess the adequacy of the cumulative impacts assessment, five key areas should be considered. In our review of the Draft EIS, we will assess whether the cumulative effects analysis adequately:

- Identifies resources, if any, that are being cumulatively impacted;
- Determines the appropriate geographic area (within natural ecological boundaries) and the time-period over which the effects have occurred and will occur;
- Looks at all past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern;
- Describes a benchmark or baseline; and
- Includes scientifically defensible threshold levels.

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<sup>8</sup> U.S. EPA.1999. Consideration of Cumulative Impacts in EPA Review of NEPA Documents  
<https://www.epa.gov/sites/production/files/2014-08/documents/cumulative.pdf>